

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MICHAEL V. LUJAN,)	MEMORANDUM DECISION AND ORDER
)	DENYING MOTIONS
Plaintiff,)	
)	Case No. 2:09-CV-198 TS
v.)	
)	
FRED DREIS et al.,)	District Judge Ted Stewart
)	
Defendants.)	

Plaintiff, Michael V. Lujan, has filed a *pro se* prisoner civil rights complaint.¹ Plaintiff's application to proceed *in forma pauperis* has been granted. Plaintiff now moves for appointed counsel and service of process.

The Court first considers the motions for appointed counsel. Plaintiff has no constitutional right to counsel.² However, the Court may in its discretion appoint counsel for indigent inmates.³ "The burden is upon the applicant to convince the court that there is sufficient merit to his claim to warrant the appointment of counsel."⁴

When deciding whether to appoint counsel, the district court should consider a variety of factors, "including 'the merits of the litigant's claims, the nature of the factual issues raised in

¹See 42 U.S.C.S. § 1983 (2010).

²See *Carper v. Deland*, 54 F.3d 613, 616 (10th Cir. 1995); *Bee v. Utah State Prison*, 823 F.2d 397, 399 (10th Cir. 1987).

³See 28 U.S.C.S. § 1915(e)(1) (2010); *Carper*, 54 F.3d at 617; *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991).

⁴*McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985).

the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims.'" *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams*, 926 F.2d at 996); accord *McCarthy*, 753 F.2d at 838-39.

Considering the above factors, the Court concludes here that (1) it is not clear at this point that Plaintiff has asserted a colorable claim; (2) the issues in this case are not complex; and (3) Plaintiff is not incapacitated or unable to adequately function in pursuing this matter. Thus, the Court denies for now Plaintiff's motions for appointed counsel.

Next, the Court denies for now Plaintiff's motion for service of process. The Court has yet to make a final determination whether to dismiss Plaintiff's complaint or order it to be served upon Defendants. See 28 U.S.C.S. § 1915A (2010). Plaintiff need do nothing further to trigger this process.

IT IS HEREBY ORDERED that:

(1) Plaintiff's requests for appointed counsel are DENIED, (see File Entry #s 5, 17, & 22); however, if it later appears that counsel may be needed or of specific help, the Court may ask an attorney to appear pro bono on Plaintiff's behalf. No further motions of this nature are necessary.

(2) Plaintiff's motion for service of process is DENIED,
(see File Entry # 6); however, if, upon further review, it
appears that this case has merit and states a claim upon which
relief may be granted, the Court may order service of process.

DATED this 16th day of February, 2009.

BY THE COURT:



TED STEWART
United States District Judge